

AO 91 (Rev. 08/09) Criminal Complaint

## UNITED STATES DISTRICT COURT

for the  
District of Oregon

United States of America

v.

U.S. v. MICHAEL RAY EMRY

*Defendant(s)*

Case No. 6:16-MJ- 56 -JR

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of May 6, 2016 in the county of Grant in the  
       District of Oregon, the defendant(s) violated:*Code Section*26 U.S.C. Sections 5841, 5861(d)  
and 5871

18 U.S.C. Section 922(k)

*Offense Description*Unlawful Possession of a Machine Gun not registered to him in  
the National Firearms Registration and Transfer Record.Unlawful Possession of a Firearm with an Obliterated Serial  
Number.


This criminal complaint is based on these facts:

See attached affidavit of FBI Special Agent Miguel Perez, which is attached hereto and incorporated herein by this  
reference.☒ Continued on the attached sheet.*Complainant's signature*

Miguel Perez, Special Agent, FBI

*Printed name and title*

Sworn to before me and signed in my presence.

Date: 05/06/2016*Judge's signature*

c.w.

City and state: Eugene, Oregon

Thomas M. Coffin, U.S. Magistrate Judge

*Printed name and title*

STATE OF OREGON       )  
  ) ss.     A F F I D A V I T  
COUNTY OF LANE       )

I, Miguel Perez, being first duly sworn, do hereby depose and say:

1.     I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI) and have been since January 2015. I am currently assigned to the Portland Division at the Eugene, Oregon Resident Agency. During my training in the FBI Academy in Quantico, Virginia, I received training in a variety of investigative and legal matters, including the topics of Fourth Amendment Searches and probable cause. Moreover, I am a federal law enforcement officer who is engaged in enforcing the criminal laws.

2.     This affidavit was prepared by SA Benjamin Jones who I know to be a Special Agent with the FBI. He has been so employed since January 31, 2009. He is currently assigned to the Bend Resident Agency and investigates a variety of crimes, including Firearms Violations and violations related to Domestic Terrorism. Prior to working for the FBI, SA Jones was a police officer with Salt Lake City Police Department for four years. The entire contents of this affidavit were related to me, SA Perez, by SA Jones, and I know them to be true.

3.     This affidavit is being made in support of a complaint and arrest warrant for Michael Ray Emry (EMRY), who violated Title 26 U.S.C. § 5861(d), (the Unlawful Possession of a National Firearms Act (NFA) Firearm - Machine Gun) that was not registered to the Possessor, and 18 U.S.C. § 922(k) (Knowingly Possessed a Firearm with an Obliterated Serial Number, in the Judicial District of Oregon.

4.     On 5/6/2016, Law Enforcement Officers (Officers) executed a Federal Search Warrant on

the trailer, truck and car belonging to Michael Ray Emry (EMRY). During this search, Officers located a fully automatic .50 caliber Ma Deuce machine gun (Browning M2) under the bed in the trailer. The serial number had been obliterated from the receiver. A picture of the M2 seized from EMRY is below.



5. An ATF Agent conducted a function test on the M2. It appeared to function as a fully automatic firearm, meaning a machine gun, which would require the possessor of the machine gun to register the machine gun with ATF. ATF conducted a records search of the National Firearms Registration and Transfer Record ("NFRTR") on Michael Ray EMRY and learned that EMRY has no firearms registered to him in the NFRTR.

6. During a subsequent post-*Miranda* interview with EMRY, EMRY admitted that the firearm was a fully functional automatic weapon. EMRY said that it could fire at the rate of between 550 and 650 rounds per minute.

7. EMRY admitted that he took the M2 from the shop where he works in Idaho about a month and a half ago. The shop where EMRY works is owned by James Weaver. EMRY took

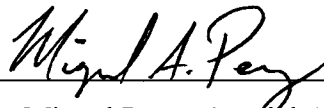
the M2 without Weaver's knowledge. Prior to bringing it to Oregon, EMRY obliterated the serial number.

8. Officers observed the M2 and verified that the serial number on the right panel of the receiver had been obliterated.

9. Your Affiant was advised by an ATF Agent that the M2 was manufactured outside of Oregon and has traveled in and affected interstate commerce. EMRY stated during the interview, that he had taken the firearm from Idaho to Oregon, which would have affected interstate commerce. He transported the M2 to Oregon about a month and a half prior to the interview with Officers.

10. Based upon the above, I believe that probable cause exists that Michael Ray Emry violated one count of Title 26 U.S.C. § 5861(d) (the Unlawful Possession of a NFA Firearm - Machine Gun) that was not registered to the Possessor, and one count of 18 U.S.C. § 922 (k) (Knowingly Possessed a Firearm with an Obliterated Serial Number in the Judicial District of Oregon).

11. Assistant United States Attorney Nathan Lichvarcik has reviewed this affidavit and concurs that probable cause exists to arrest Michael Ray Emry.



Miguel Perez, Special Agent  
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence on this  
\_\_\_\_ 6 \_\_\_\_ day of May, 2016.



THOMAS M. COFFIN C.W.

UNITED STATES MAGISTRATE JUDGE